



# Transparency

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The Kuala Lumpur Society for Transparency and Integrity

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## President's Message

The Kuala Lumpur Society for Transparency and Integrity which is the Malaysian Chapter of Transparency International was registered as a society under the Malaysian Societies Act on December 24, 1998.

Pursuant to its Constitution the inaugural annual general meeting was held on May 17, 1999 at the President's Room in the Selangor Club. Those who attended that meeting were YM Tunku Abdul Aziz, Dato' Anwar Fazal, Ms. Annette Goh, En. Aslam Fazal, Puan Mehrun Siraj, Ms. Pushpa Nair and myself. In addition to these members the meeting elected En. Anis Yusaf Yusof, Ramdas Tikamdas, YM Raja Aziz Addruse and Dato' Dr. RS McCoy into its first Executive Committee. While YM Tunku Abdul Aziz earlier mooted the need to form a Malaysian Chapter at the request of Mr. Jeremy Pope, then director Transparency International, Berlin, it was in effect founded by these likeminded concerned individuals.

Today this Malaysian Chapter is one of the 129 national chapters of Transparency International first established in Berlin in 1993 as the coalition against corruption in international business transaction and now the global voice against bribery and corruption in public and private sector. The establishment of 129 national chapters within 12 years is a clear indicator of universal concern over bribery and corruption.

Corruption takes place in every economy, in every type of political system and in every part of the world. Even the most advanced democratic countries with well-developed institutions are not spared of this evil. The Enron, Worldcom and the Italian giant Parmalat scandals hit the world headlines in recent years.

At the recently concluded first World Ethics and Integrity Forum in Kuala Lumpur in his keynote address: "Integrity – the Basis of Good Governance" the Prime Minister of Malaysia, Dato' Seri Abdullah Ahmad Badawi, once again reiterated his resolve to promote good governance and ethical values as well as the fight against corruption as "central pillars of my administration". In explaining how important it is for Malaysia to pursue these goals to maintain its economic competitiveness in the face of increasing global pressures and amidst increasing internationalization of trade and business



he said *"a country that has a high level of corruption, whether real or perceived, runs the risk of losing current and future investments. For a small country like Malaysia, the perception of corruption or inefficiency is something that we simply cannot afford. That is why I would like to see Malaysia improves its performance in international corruption survey such as the corruption perceptions index survey conducted by Transparency International"*.

The Prime Minister explained the two main elements which he described as "preventive" and "punitive" aspects for real and sustained anti-corruption strategy. Among the preventive elements he stressed on improving the public service, delivery system and public sector procurement with the enhanced use of the tender system.

On the punitive aspect he said that he had given "firm" directions to the ACA to carry out their investigations "without fear or favour".

I laud the Prime Minister for reiterating his firm resolve to fight against corruption and improve Malaysia's performance in the CPI on corruption. If real positive changes are seen in the public

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### EDITORIAL

#### New Beginnings ...

A New Year brings new beginnings and new resolutions. TI-M began 2005 with the move to our new office in Kuala Lumpur.

The AGM in March elected a new ten-member Executive Committee (Exco) to serve for two years. This new Exco is made up of five members from last year's Exco, four new enthusiastic members and a human dynamo in the form of a former Deputy President and founder member – a winning combination, all set to achieve the goals in our Strategic Plan.

This Exco aims to be more inclusive by providing more information to members through this new look newsletter and by fostering a greater sense of togetherness in the pursuit of the Society's objectives through the formation of several task forces. To augment our limited resources, we will collaborate with other like-minded groups or institutions on projects of mutual interest.

Your Exco has devised administrative and financial mechanisms to promote greater transparency and accountability in the management of the Society. We have resolved to implement strictly the Society's policies on Ethics, Conflict of Interest, Reimbursement to Exco members for expenses incurred in the performance of their duties and such other policies as may be agreed to from time to time.

In order to achieve our goals, the Exco needs the support of all members. We appeal to each and every one of you to get more involved and to become an integral part of TI-M. Together we can succeed.

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# The Annual General Meeting 2005

This year, the A.G.M. was held on Saturday 12th March at a Meeting Room provided by the Integrity Institute of Malaysia (IIM) at their premises in Jalan Duta.

With 24 members present, the meeting began just twenty minutes after the scheduled time with Dato' Param Cumaraswamy, President of the Society, in the chair. The President expressed the Society's appreciation to IIM for providing the venue and the brunch which was to follow.

The Minutes of the previous year's A.G.M. and the Annual Report were adopted with little discussion. The Financial Statement for 2004 raised one comment from Dato' Dr. Ronald McCoy who was disturbed to see that RM150,000/- was spent for the fundraising dinner to yield only RM180,000/- for the Society. He expressed the hope that this would not occur again in the future. The Internal Auditor, Mr. Kaneson, informed the house that he had recommended that all committees organizing events for the Society, should have and should adhere to a budget approved by the Executive Committee. This measure would ensure that the matter mentioned above would not be repeated.

A ten person executive committee was elected to serve for two years and two internal auditors to serve for one year. The

meeting also agreed to set up three major task forces to implement the Society's Strategic Plan – the Education and Training Task Force, the Policy, Advocacy and Reform Task Force and a Fund Raising Task Force.

The President informed the members that the Newsletter of the Society would carry information not only of TI-M and other TI Chapters' activities but also information about programmes in the private sector relating to Ethics and Good Governance. He invited members to send in articles about their corporations for inclusion in the newsletter.

The A.G.M. ended at 12.30p.m. with a vote of thanks to the Chair.

Before adjourning to partake of the brunch, members were privileged to hear a talk by Datuk Dr. Sulaiman Mahbob, the first President of IIM, who outlined IIM's planned activities for implementing the National Integrity Plan. It was apparent that there was much scope for TI-M to collaborate with IIM. TI-M is looking forward to that prospect.

TI-M records its gratitude to Datuk Dr. Sulaiman Mahbob for that illuminating talk and for the use of the premises for the A.G.M. and for the refreshments provided.

## EXECUTIVE COMMITTEE

**YBhg Dato' Param Cumaraswamy**  
*President*

**Lee Chong San**  
*Deputy President*

**Puan Mehrun Siraj**  
*Secretary General*

**Prof. Dr. Syed Abd Hamid Al Junid**  
*Treasurer*

*Committee Members:*

**YBhg. Dato' Anwar Fazal**

**Stewart J. Forbes**

**Tam Wah Fiong**

**Ronald Quay Ong Guan**

**Dr. Loi Kheng Min**

**Ms Josie Fernandez**

## EDITORIAL COMMITTEE

**Puan Mehrun Siraj**  
*Editor*

**Ronald Quay Ong Guan**

**Tam Wah Fiong**

**YBhg. Dato' Anwar Fazal**

**YBhg. Dato' Param Cumaraswamy**

## STAFF OF TI-M

**Ms Irene Choong**  
*Executive Assistant*

**Ms Dorathy S. Benjamin**  
*Project Manager*

**Ms Sunita Kaur Chima**  
*Researcher*

## CALL FOR NOMINATIONS FOR

# The National Integrity Award

The Kuala Lumpur Society for Transparency & Integrity or Transparency International Malaysia will be presenting the National Integrity Award on 9th December 2005 in conjunction with the UN International Day Against Corruption.

The Society now invites nominations of candidates for this award. Candidates must satisfy the following criteria and nominations must be made in accordance with the guidelines set out below.

### CRITERIA FOR THE NATIONAL INTEGRITY AWARD

- Men and women whose actions have contributed in some significant way to the development of a cleaner ethical environment.
- Individuals and institutions who have demonstrated their determination to fight corruption in all its manifestations.
- Those who maintain a constant vigil on the institutions that underpin our democratic systems and values against business abuses.
- Those who fight public service corruption and promote uncompromising standards of public behaviour.
- Members of civil society, professionals, serving and retired public officials who have clearly demonstrated their personal integrity, sense of public duty, and active involvement in the fight against corruption.

- In making these awards, the only overriding criterion is confronting corruption and no political or other consideration will be brought to bear on the decision making process.
- One award will be made annually.

### GUIDELINES FOR NOMINATIONS OF CANDIDATES FOR THE AWARD

- Open to all Malaysian citizens and locally incorporated corporations.
- Signed statement by Nominee that s/he agrees to the nomination. In the case of a corporation, the CEO must sign the statement agreeing to the nomination.
- Information about the Nominee.
- Nominations must have a proposer and seconder.
- Proposers and seconders must have personal knowledge of the work of the Nominee and must be prepared to vouch for the accuracy of the statements submitted.
- Nominations must be supported by documents, letter, awards, certificates, articles, video, etc. evidencing such initiatives or contributions to the fight against corruption.

**Nominations should be sent to the TI-M office at Level 27, Wisma Tun Sambathan, Jalan Sultan Sulaiman, 50000 Kuala Lumpur or by e-mail to [admin@transparency.org.my](mailto:admin@transparency.org.my) by Tuesday, August 30, 2005.**

## REPORT FROM OUR TASK FORCE ON

# Policy, Advocacy and Reform (PAR)

## The members of PAR :

**Dato' Anwar Fazal** (*Chairperson*)

**Ms Josie Fernandez**

**Ms Pushpa Nair**

**Dato' Param Cumaraswamy**

**Puan Mehrun Siraj**

## The Terms of Reference of PAR

1. To advise the Executive Committee on policy issue.
2. To undertake advocacy locally and globally.
3. To organise practical activities toward reform.

In particular in the following areas:

- Ratification / Accession and benchmarking relating to the UN Convention against Corruption.
- Legislative and other acceptance of the highest global standards in the following areas:
  - i) Independence of the Anti-Corruption Agency
  - ii) Independence of the Judiciary
  - iii) Independence of the Press
  - iv) Freedom of Information Act / Revision of the Official Secrets Act
  - v) Transparent / competitive procurement policies
  - vi) Protection of "whistleblowers"

## The Plan of Action for the coming year includes the following core activities:

1. The International Day against Corruption (IDAC) celebration on 9th December 2005 which will be a major strategic anchor event of TI-M for PAR work.
2. Annual Integrity Awards presentation (in conjunction with IDAC).
3. A Public Forum on The State of Corruption in Malaysia on 24th September 2005.
4. An exhibition and essay writing competition (in conjunction with IDAC).
5. Journalism Awards for best reporting on Integrity to be announced on World Press Freedom Day 2005 and awarded in 2006 and thence annually on World Press Freedom Day.
6. Development of a Press Kit, Speakers Kit, Community Kit.
7. Establishment of a Research Grant Programme to encourage research on legislation and other aspects of corrupt practices.

TI-M invites volunteers to assist with any of the above mentioned projects or activities that may be of particular interest to them.

You can help by organising a function, researching and writing on a particular issue or by just sharing your ideas on a matter.

Please contact PAR by calling Irene at the office at 03-2273 8581 or by sending a fax to 03-2711 8917 or by e-mail to [admin@transparency.org.my](mailto:admin@transparency.org.my) or by snail mail to Level 27, Wisma Tun Sambanthan, Jalan Sultan Sulaiman, 50000 Kuala Lumpur.

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sector delivery service and procurement procedures with more transparency and accountability Malaysia's rating in the CPI may improve.

However, the Prime Minister made no reference whatsoever about the need to address structural changes to key institutions of the national integrity system including making the ACA more independent. So long as the ACA Director General remains as a civil servant holding office in effect at the pleasure of the Prime Minister and subject to civil service discipline this institution will be perceived as part of the civil service without

independence from the government.

He made no reference to the need to amend the Official Secrets Act, the Printing Presses and Licensing Act and enactment of a Freedom of Information and Whistleblowers Protection legislation to promote greater transparency and accountability in both the public and private sector. The Prime Minister should also be concerned over Malaysia's low rating in the World Press Freedom Index. In 2003 Malaysia ranked 104 and in 2004 fell to 122 among 167 countries surveyed by Reporters Without Borders. There was no reference in his speech as to when the government is expected to ratify the UN Convention Against Corruption.

No one will disagree with the Prime Minister that the battle against corruption is complex and a long and arduous one. However, a holistic strategy should be formulated with short term and long term measures identified. Selective reforms is not the answer.

Finally, the message Tan Sri Dato' Musa Hitam conveyed in his speech about "the Power of Ethical Leadership" confirms the need for our enforceable leadership code in Malaysia for all those who hold key leadership positions in the public sector including political leaders.

## South East Asian Parliamentarians Against Corruption (SEAPAC)

on March 31 to April 1, 2005

Transparency International Philippines which is the Secretariat of the Global Organization of Parliamentarians Against Corruption (GOPAC) organised its regional extension SEAPAC (South East Asian Parliamentarians Against Corruption) and invited Dato' Param Cumaraswamy and Lee Chong San to attend this occasion in Manila

Lee Chong San, representing TI Malaysia, attended the two day function. TI Malaysia was the only TI Chapter invited to attend. Parliamentarians from Thailand, Singapore, Indonesia, Vietnam, Laos, Cambodia and Philippines attended the meeting. Malaysian parliamentarians were conspicuously absent.

At the conclusion of the conference, SEAPAC as an organization was formalized with an adoption of the "Manila Declaration".

Lee Chong San was asked by TI Philippines to share with the parliamentary participants TI-M's anti corruption plan, activities and strategies.

The Philippines Parliamentarians placed great importance on this conference with the Senate President providing a key note speech at the opening ceremony and the President of the Philippines, Gloria Macapagal Arroyo giving a dinner for the delegates at the Malacanang Palace at the end of the conference.

The Organizing Committee of the Conference provided the airfare, hotel accommodation and arranged for transfers to and from the airport in Manila.

## About GOPAC

GOPAC is an international organization with the primary goal of bringing together parliamentarians and government leaders, international organizations and individuals to combat corruption and promote transparency and accountability in government.

GOPAC was established at the October 2002 Global Conference Against Corruption in Ottawa, Canada. The conference was supported by the Parliament of Canada, the World Bank Institute and the Canadian International Development Agency. Over 170 parliamentarians from 60 countries participated.

**Malaysia's absence, for whatever reason, from the SEAPAC meeting could be misinterpreted as the lack of political will to fight corruption in Malaysia. TI-M therefore urges the Malaysian Government to become part of SEAPAC and also to seize every opportunity in the future to attend anti-corruption meetings to show its commitment to fight corruption in the country.**

## Expert Meeting on Corruption Prevention in Tsunami Relief

**ORGANISED JOINTLY BY THE ADB/OECD ANTI-CORRUPTION INITIATIVE FOR ASIA-PACIFIC AND TRANSPARENCY INTERNATIONAL & HOSTED BY THE GOVERNMENT OF INDONESIA ON 7-8 APRIL 2005 IN JAKARTA, INDONESIA.**

The ADB, OECD and TI in cooperation with the Government of Indonesia convened an expert meeting on corruption prevention in tsunami relief within the framework of the ADB/OECD Anti-corruption Initiative for Asia-Pacific.

Participants representing government, the private sector and civil society from six affected countries, India, Indonesia, Maldives, Malaysia, Sri Lanka and Thailand as well as donors and relevant international organizations and experts attended. The meeting was participatory and reached specific recommendations to reform the relief and reconstruction efforts and form the basis for developing generic anti-corruption guidelines for future disaster relief efforts. Recommendations were drafted and a second draft will be circulated amongst the participants for further comments and input before the final recommendations are made.

### Malaysia was represented by:

#### **Encik Hasnan Zahedi b Ahmad Zakaria**

*Principal Assistant Director  
National Security Division  
Prime Minister's Department.*

#### **Encik Zainool b Abdullah**

*Director  
Anti-Corruption Agency, Kedah*

#### **Encik Abu Kassim b Mohamad**

*Director  
Anti-Corruption Agency, Penang*

#### **Datuk Dr. Jemilah Mahmood**

*President Mercy Malaysia*

#### **Mr. Lee Chong San**

*Deputy President  
TI-M*

#### **Prof Syed Abdul Hamid Al Junid**

*Treasurer  
TI-M*

Encik Hasnan presented Malaysia's country report which provides a brief overview of the government's basic approach to address the corruption risk in Tsunami relief.

Mr. Lee Chong San was one of the three designated discussants on "Facilitating effective and transparent procurement and implementation" - a paper presented by Dr. Michael Wiehen of Transparency International.

Encik Abu Kassim presented a paper "Ensuring effective anti-corruption enforcement and complaint-handling mechanisms" which touched on the things ACA did in Penang.

Upon arrival at Jakarta, Syed Hamid met with other TI members for a briefing by TI Indonesia on what they had done with regard to Tsunami relief work vis à vis corruption prevention while Lee Chong San met with other presenters and discussants on the format and scope of the meetings.

The airfares and other associated costs of this meeting for TI Participants were provided by the organisers of the meeting.

## Param speaks at World Ethics Conference

Kuala Lumpur

### “Accountability and Transparency in Public & Private Sector”

Following the measures taken by the Council of Europe, the Organization of American States, the OECD, the Transparency International and Social Accountability International to combat bribery and corruption both at international and regional levels, the UN General Assembly in December 2003 adopted the Convention Against Corruption. It took member States ten years to negotiate this instrument. It is a comprehensive treaty calling upon member States to address this menace both in the public and private sector.

As at April 28, 2005, 109 States have signed this treaty while only twenty have ratified. It requires thirty ratifications before coming into force ninety days after the 30th ratification.

What is most disturbing is up to date none of the European nor the Northern American States have ratified. Among the Latin American and the Asian States only Paraguay and Sri Lanka have ratified.

From the lessons learnt over the years a number of different anti-corruption measures have been proposed and formulated by various concerned organizations. For the private sector the mechanisms of corporate governance are seen best suited to eliminate the possibility of businesses getting involved in corrupt activities. Corporate governance provides a system of institutions and procedures that govern the relationship between managers and shareholders, including investors, protection of shareholder rights, and independent supervision of activities of the business entity. It also sets up a system where rules are reinforced not only by written negotiations but also by moral standards of business ethics and by responsible corporate behavior.

Following the Enron and Worldcom scandals, the Sarbane-Oxley Act of 2002 enacted in the US brought a chilling effect on US corporations and outside the US.

Effective implementation of measures to combat corruption and extract transparency and accountability both in the public and private sector require strong democratic institutional structures with respect for the rule of law. An independent honest and impartial judiciary is imperative. Only when there is such a judiciary will there be seen all other mechanisms and procedures in place functioning in tandem effectively. Such a judiciary will be seen as the standard setter for the others to follow. Specialized independent agencies like Anti-Corruption Agency and Securities Board to regulate,

monitor, supervise and enforce the rules and regulations are essential. A close ally for these mechanisms is a free press. A free press to steer public awareness and encouraged to investigate and publish malpractices in both public and private sectors could be a powerful tool to combat corruption. Civil Society groups committed to the cause of fighting corruption should be encouraged and given space to address the issue.

One comment on codes of conduct. Article 8 of the Convention Against Corruption expressly provides and encourage member States to formulate codes of conduct for public officials to promote “Integrity, Honesty and Responsibility.” In this context the political leaders of government should not be spared. They too should be subject to a code of conduct. Moreover an enforceable code. I have in mind the leadership code entrenched in the Constitution of Papua New Guinea. The same Constitution provides for the office of an ombudsman to monitor and enforce the code.

Corruption is aided and abetted by money laundering. In the past, money laundering was associated with proceeds of drug-trafficking and other organized crime. Now it is closely linked to corruption. Money laundering from corruption ranks fourth behind drug-trafficking, organized and conventional crime and fraud. President Pervez Musharaf was reported to have said, *“Money deposited by looters and plunderers in foreign banks was enough to repay Pakistan’s debts.”* He urged the international community, *“to wage a war against corruption with the same resolve with which the menace of terrorism and narcotics were being addressed.”*

Money laundering subverts legitimate financial mechanisms and banking relationships by using them as protection cover for the movement of the proceeds of criminal and corrupt activities as well as financing terrorism.

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#### Ongoing Projects

### Tan Sri Azizan Integrity Circle for Young Malaysians

To honour the late Tan Sri Azizan Zainul Abidin, former Chairman of PETRONAS, TI-M plans to launch the Tan Sri Azizan Integrity Circle for Young Malaysians, a project which will fulfil the late Tan Sri’s wish to inculcate integrity in young Malaysians.

A working group headed by Mr. Lee Chong San and comprising Prof. Syed Abdul Hamid, Encik S. Hadi Abdullah and Dr. Sieh Kok Shang, with Ms Dorathy Benjamin as the Secretary, is planning a training programme which will have as its outcome the creation of Integrity Circles for the participants and the formation of an Integrity Council.

Work is still in progress. TI-M will be seeking permission from Tan Sri Azizan’s family to use his name for the project.

### The EU Project on Preventing Corruption in Public Contracting

As part of this project, The Mission Head from TI Berlin, Ms Juanita Olaya, will be conducting an Assessment Mission in Kuala Lumpur from 24 – 27 May 2005.

On the 24th Ms Olaya will be visiting the Government Ministries involved in this Project.

On the 25th she will be meeting the Chambers of Commerce, PETRONAS and other corporations and on the 26th civil society groups and academic institutions. These meetings will be held at the Malaysian Institute of Integrity.

### The Privatisation Project

The report of this study is being edited and will be published when it is ready.

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It undermines the integrity of the global financial and trading systems.

The figures are staggering. An International Monetary Fund report recently disclosed that between USD 500 billion and USD 1.5 trillion or between two and five percent of the world's GDP are laundered every year through global financial system. In the United Kingdom alone it is estimated that £18 billion i.e. 2% of its GDP is laundered through the system. Transparency International (UK) report 2003 implicated two professions, namely lawyers and accountants, as being used by money launders. These professions were alleged as being prepared to turn a blind eye and launder profits in this nefarious activity.

The confidentiality principles associated with solicitors trust accounts is obviously attractive to money launders and a great temptation for unscrupulous lawyers. Some governmental control and supervision, in the circumstances, cannot be resisted by lawyers purely on the grounds of the independence of the profession. Self regulation is no longer seen justifiable and acceptable.

In the post Enron, Worldcom and Parmalat era, more stringent measures are expected from the disciplinary force bodies of the professions.

In addition to the provisions in the Convention Against Corruption the United Nations Convention Against Transnational Organized Crimes adopted by the General Assembly on January 2001 provides measures to combat money laundering. This Convention came into force on September 29, 2003 after the fortieth ratification. As at April 28, 2005, 147 States signed it and 102 ratified. Save for the Philippines, China, Lao PDR, Myanmar and Malaysia, no Asian State has ratified this instrument. Both the United States of America and the United Kingdom have not ratified this Convention.

Ideally to combat corruption effectively both domestically and internationally the implementation of the standards in both the Conventions Against Transnational Organized Crimes And Corruption is necessary.

The fight against bribery and corruption both in the public and private sectors cannot succeed merely on blue prints and verbal rhetoric from political masters and corporate leaders. It requires political will to change and to change mindsets. It requires more transparency and accountability from government and corporations. Asian governments are generally wanting in transparency. This want of transparency is evident from

the fact that very few Asian States have freedom of information legislation and whistleblowers protection legislation. Sometimes the Official Secrets legislation meant for protection of State defenses are used to resist flow of information on public administration. Whistleblowers who divulge information on malpractices in public administration are charged for offences under the same legislation. In the private sector there have been instances where judicial gag orders are obtained by corporations against whistleblowers for publication of malpractices in corporations.

Transparency International Malaysia is committed to working closely with the IIM to realize the objectives of the National Integrity Plan. While that is a long term process, we are conscious of immediate weaknesses and deficiencies in the key institutions of the national integrity system and are addressing them. We have also begun a research project to study how far our laws and Government policies are inconsistent with the Convention Against Corruption. This should assist our Government on where it stands vis-à-vis the Convention. We are urging our Government to ratify the Convention and implement it by harmonizing our laws and policies with the Convention.

We are campaigning, and soon with like minded groups, to urge the Government to amend the Official Secrets Act and the Printing Presses and Publication Act to repeal the restrictive provisions therein and enact a Freedom of Information and Whistleblowers Protection legislation which we consider are pivotal for transparency and accountability in both the private and public sectors in Malaysia.

I intend to place before Transparency International, Berlin to consider a process of drafting a code of conduct for all leaders in public service including political leaders with recommendations for appropriate enforcement mechanisms. I am aware that some States do have codes for public officials. Can we standardize internationally for consideration by States which do not have any? I feel that such a code could complement Article 8 of the Convention Against Corruption.

**Dato' Param Cumaraswamy**  
President,  
*Transparency International Malaysia*

29 April 2005

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## 10% Increase for MPs

For obvious reason this proposed Bill is supported by all MPs across the floor of the Dewan Rakyat and similarly I am sure in the Dewan Negara. Periodic review of their salaries and allowances is fair to keep in line with the economic development of the country.

However, for greater transparency and accountability and to instill public confidence in the integrity and performance of members of Parliament including Ministers all members of Parliament should likewise support a Bill for periodic declaration of their assets to an independent body if not Parliament itself.

12 April 2005

## A Response to Dato' Nazri's Statement in Parliament on the Anti-Corruption Agency

So long as the Anti-Corruption Agency remains under the control of the Executive arm of the Government it will never be seen and perceived by the public as capable of independently, impartially and effectively discharging its duties under the Anti-Corruption Act and in particular investigation of reports of bribery and corruption.

If the Government is seriously committed to combat corruption then it must address the weaknesses in the structure of the institutions pivotal for the fight against corruption. The Anti-Corruption Agency is such a pivotal institution. So long as its Director-General is in effect appointed by the Prime Minister from among members of the public services, and effectively holds office at his pleasure and subject to discipline like any other public servant the Director-General's and the agency's institutional independence will always remain a suspect.

With such a structure the ACA will be perceived as part of the Executive. It is not the satisfaction of the Government that the ACA is handling its responsibilities effectively that matters. It is the satisfaction of the public that matters most.

19 April 2005

# Combating Corruption

Prime Minister Abdullah Badawi reiterated his tough stand against corruption at the Integrity Institute Malaysia on April 29 2005, when he delivered the Keynote Address at the World Ethics and Integrity Forum in Kuala Lumpur. However, he also emphasized that he will not pursue the anti-corruption campaign for the sake of popularity but only for a clean administration.

The Prime Minister was countering criticism that he may only go for his political opponents. He stressed that he would leave the investigation and prosecution to the Anti-Corruption Agency and the Attorney General's Department and that he would not interfere. However, he said that the authorities concerned must be sure that they follow the doctrine that a man is innocent until proven guilty and that their cases must be solid before they take the accused to court.

I believe that he made these important statements because there is a growing feeling that the momentum in the fight against corruption is slowing down. If prosecutions are few and far between, there must be good reason. Corruption is not declining. In fact, there are strong perceptions that corruption is becoming more blatant.

Could it be that the ACA staff is inadequate for the task of stepping up its pressure against corruption? Why is it not possible to arrest and charge more corrupt persons? Is it because the quality and quantity of ACA staff are wanting? Is this due to insufficient resources provided by the government?

The Government has to examine these basic issues so as to speed up the process of combating corruption more assertively. If the ACA cannot deliver fast enough, the people will assume that the Government is not as serious as it claims, to fight corruption with vigour and determination. This will be unfortunate.

Hence the Government has to give greater priority to catch the big fish before anti-corruption drives are viewed with cynicism and indifference. Then corruption will really take a stronger hold on our society and bleed the national morality and economy.

At one of the Ethics and Integrity Forum's panel session with Minister Mentor Mr. Lee Kuan Yew of Singapore and former Deputy Prime Minister of Malaysia, Tan Sri Musa Hitam, I asked how it was possible to suppress money politics without suppressing the opposition. Both former leaders responded that money politics is difficult to fight unless political leaders are strong and tough enough. Mr. Lee

however did not touch on the question of suppressing the opposition while Tan Sri Musa suggested that those guilty of money politics should be taken to court rather than merely disciplined within the political party.

My own view would be that unless political parties can take the bull by the horns and ruthlessly attack money politics, it is well nigh impossible to combat corruption effectively at the national level. It will be like employing double standards – one for the politicians and one for the rakyat. How can any government in the world really crack the whip on the corrupt, if they do not exercise the same standards of integrity on their own party members. No one will then take the anti-corruption measures seriously. There will always be some doubt over the government's sincerity of purpose. This will then adversely undermine the government's efforts against corruption, however serious the government intends to be.

The Malaysian government can least afford to take it easy on corruption since neglect of corruption can lead to social unrest. The have-nots are mostly Bumiputras and they will suffer most from continuing corruption as the rich will pay their way through corrupt bureaucracy. The New Economic Policy which is affirmative action that is intended to help the less well off and poor Bumiputras can be easily subverted by the rich businessmen who will gladly pay off the mostly Malay officials to achieve their goals to maximize business profits regardless of the adverse effects on the New Economic Policy and the poor of all races.

If this trend continues unabated and becomes even worse, social tensions and ethnic resentments can increase and social instability can be undermined. Corruption therefore must be arrested and good governance must increase at all costs. Otherwise Malaysia will have a high cost to pay for the continuation of peace, stability and progress.

– Tan Sri Ramon Navaratnam is a member of TI Malaysia and a commissioner with the Human Rights Commission Malaysia. He is also one of Malaysia's leading economists.

## QUOTABLE QUOTES

### *The importance of a free press*

"A free press is more important than an independent judiciary in moves to combat corruption in Malaysia. The government's stated mission would not succeed without press freedom. A free press is vital for an effective democracy."

**Dato' Param Cumaraswamy**  
*President, TI-M*

## JOURNALISM AWARD – PRELIMINARY ANNOUNCEMENT

On May 3, World Press Freedom Day, the President of TI-M announced that TI-M will be presenting an annual award for journalism on World Press Freedom Day beginning 2006.

The award will be for the best article on issues relating to transparency, accountability, integrity, ethics, corruption in whatever sector and/or anti-corruption measures.

The award will be open to Malaysians writing in Malaysia about Malaysia.

Details have not been finalised and will be announced later.

## TI-M ACTIVITY FOR JUNE

There will be a talk entitled "Residents' Rights in relation to Town and Country Planning" by Mr. Derek Fernandez, a senior lawyer and relentless activist in local government issues.

**Date : Monday 27th June 2005**

**Time : 5 - 7 p.m.**

**Place : Bilik Persidangan,  
Law Faculty,  
University Malaya**

The presentation will touch on corruption in local governments.

## PRESS STATEMENTS FROM TI-M

### **Malacca State-run private hospital wanting in transparency and accountability**

The case of Belgian engineer, Bruno Venkouter's, experience with the Malacca State-run private hospital over his right to an itemized bill of RM109,00/- is not new. I have heard of a similar incident recently in a private hospital in the Klang Valley.

This reluctance on the part of these hospitals to give their patients and or their next of kin itemized bills must stop. In this day and time when accounting systems are all computerized there is no reason whatsoever why it is so difficult to print out a computer generated bill itemizing the details and giving them to the patients. The Chief Minister of Malacca was quite right in asserting that patients had a right to know what they were being billed for. The hospital's practice smacks at the core of accountability and transparency from a public service institution.

I urge the Director General of Health who is the licensing authority for the establishment of private hospitals under the Private Hospital's Act (1971) to step in and direct all private hospitals as a matter of course to provide itemized bills to their patients or the next of kin without even being asked for. Even when patients are called upon to make advance payments to top-up payments already made there should be an interim itemized bill to show how the earlier payment had been utilized. Itemized bills must be the norm even if the bills are paid by insurance companies under medical policies issued to patients. When issuing licenses in the future for new private hospitals this practice should be imposed as a condition.

28 March 2005

### **A response to Statements by Khairy Jamaluddin, Shahrir Samad and Nazri Abdul Aziz on Combating Corruption**

Khairy Jamaluddin's statement that after the general elections the Prime Minister decided not to dig up the past and focus on retroactive actions but rather look forward in the fight against corruption goes against the earlier promises made by the Prime Minister and the first two prosecutions of two high profile personalities more than a year ago. The statement also goes against all what was promised in the Barisan Nasional manifesto at the last general elections.

Khairy Jamaluddin's statement also implies that the Anti-Corruption Agency and the Office of the Attorney General are not independent agencies in the investigation and prosecution of bribery and corruption offences. It implies that these agencies are dependent on instructions from the Government as to who should be investigated and prosecuted.

In the last one year since Datuk Abdullah Ahmad Badawi took office as Prime Minister after the elections there has been greater public awareness of the need to fight corruption at all levels. The launching of the National Integrity Plan and the setting up of the Institute Integrity Malaysia are steps in the right direction as a long term strategy. There is some truth in what Shahrir Samad said, as reported in yesterday's Malaysiakini news. The fight against corruption is "fighting against a legacy problem". The Prime Minister inherited that legacy. Many who were part of that legacy and whose conduct were subject of suspicions and rumours are still in power. Can their mindsets be changed? How long will that take? Even if the bureaucratic system is thoroughly

overhauled and delivery systems improved yet so long as leaders tainted with malpractices in the past legacy remain at the top the political will to genuinely combat corruption will continue to be questioned. That is why it is important to investigate past scandals involving leaders thoroughly, independently and, where there is evidence, prosecuted. The public have a right to know what really happened. That is what transparency and accountability is all about.

If the statement in Parliament by Nazri Abdul Aziz that "in the case of corruption, no immunity will be given, regardless of their status" is the collective stand and commitment of the Government than it must act and provide the necessary infrastructure by making the ACA independent, enacting a right to information legislation, amending the Official Secrets Act and relaxing the control on press freedom. With such infrastructure the Prime Minister can win the confidence of the rakyat for his agenda to combat corruption.

7 April 2005

### **Chief Secretary's Reminder to Civil Servants**

This reminder to civil servants by the Chief Secretary of the Government is most refreshing and very timely. While the Public Officers (Conduct and Discipline) Regulations 1993 has been in the books for more than ten years enforcement appears to be a problem. Gifts whatever form and whatever values can be given to and accepted by civil servants in various ways, sometimes openly on occasions like weddings, birthdays and other similar occasions, and at other times secretly. Cash payments made at golf courses are not uncommon.

Though civil servants are expected to report of receipts of such gifts when taken under certain situations when difficult to refuse, this of course is left entirely to their conscience.

A more effective procedure for enforcement is to make it mandatory for civil servants, at least the senior ones, to declare by way of a declaration annually whether in the year they received such gifts and if so the nature of the gifts, its value and from whom. Such periodic declaration may not be too onerous on them but would be uniform and not seen selective. It certainly would conform with the scheme and

purpose of the National Integrity Plan.

I also agree with CUEPACS President that the public too must refrain from tempting civil servants with gifts of any form.

I also welcome the Chief Secretary's reminder to civil servants to be courteous to the public. This too is very timely. It is a common complaint by the public today that many civil servants are seen and heard as though public are at their service and not vice-versa.

8 August 2005